

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIONE V. SMITH,

Defendant.  
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CASE NO. 5:06-cr-310

ORDER AND OPINION  
[Resolving Doc. No. 74]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Defendant Gione V. Smith moves the Court to order the Clerk of the U.S. District Court to release the funds provided by Defendant to satisfy the secured bond pursuant to FED. R. CRIM. P. 46(f)(2)(B). The Court **DENIES** Defendant's Motion for Release of Funds Provided to Satisfy the Bond.

FED. R. CRIM P. 46(f)(1) requires "The court must declare the bail forfeited if a condition of the bond is breached." The Defendant argues that the Court may set aside such forfeiture if "it appears that justice does not require the bail forfeiture," and that the Court should exercise its discretion in this case. FED. R. CRIM. P. 46(f)(2)(B). However, the Court finds that Defendant has presented no justification that excuses the numerous violations of his bond conditions. As such, FED. R. CRIM P. 46(f)(1) demands that the funds provided by Defendant to satisfy the secured bond

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be forfeited. Therefore, the Court **DENIES** Defendant's Motion for Release of Funds Provided to Satisfy the Bond.

IT IS SO ORDERED.

Dated: October 26, 2006

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE